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RETIRED OFFICERS ASSOCIATION BULLETIN

Published Quarterly
For Members

VOL. I JULY, 1945 NO. 3

Proposed New Plan For Membership and Dues

We are indebted to the many members who in answer to the invitation in the April Bulletin, wrote us their views concerning a new plan for membership dues. Our policy of answering every letter promptly cannot be met as to promptness because of the number of letters received.

The proposals received materially aided the Membership Committee in preparing its report to the Board of Directors at their regular quarterly meeting 28 June 1945.

The Board of Directors decided to submit its plan to the full membership for a vote by mail. Accordingly there should reach each of you, as soon as the printing can be accomplished, a return postcard ballot. Prompt return of the ballot, with your vote recorded thereon, is requested.

The Board of Directors at its quarterly meeting, 28 June 1945, after several amendments, adopted the report of the Membership Committee. The amended recommendations as adopted are: —

(a) Those joining the Association after the approval of this plan by the membership shall be members, instead of Associate Members or Life Members as formerly. Life membership and Associate membership for new members to be suspended after approval of this plan by the membership.

(b) Establish an entrance fee of one dollar, for those joining after the approval of this plan by the membership.

(c) Establish annual dues in advance at $4.00 for all members joining after the approval of this plan by the membership, 50c of which, shall be for subscription to the Bulletin.

(d) Obtain from each present Life Member a statement whether or not he agrees to pay $4.00 annual dues for himself, to help finance the Association's work, and if so, the date he desires to be billed for the first payment, and from each present Associate Member a statement whether or not he agrees to the $4.00 yearly dues after $30.00 is paid, and he becomes a Life Member, advising him that if he does not so agree he may continue under the old agreement.

(e) Those Life Members who do not agree to pay dues will be carried on as Life Members without dues. A present Associate Member will become a Life Member upon completion of payment of $30.00 and his dues shall cease unless he agrees in writing to continue the $4.00 annual dues as a Life Member.

(f) This plan shall be submitted to the Membership for vote by mail, the polls to be closed ..... days from date of mailing out.

(g) The votes will be held, counted and reported to the President by a committee of five appointed by himself.

(h) For the purpose of this poll Associate Members as well as Life Members shall be entitled to vote, and after the approval of this plan by the present membership, Life Members, Associate Members and Members, shall be entitled to vote upon any matter properly submitted to the entire membership for vote.

Obviously, the expenditures of the Association should be budgeted upon the assured income. At present that assured income meets only about one half, the necessary expenses.

If no one approves the proposed set-up it will leave us exactly where we are—dependent upon contributions for the deficit. Our financial condition, and therefore the service we can render, will improve in direct proportion to the number of present Life Members agreeing to the payment of $4.00 annual dues. If but few agree we will still have to rely on

RETIRED OFFICERS ASSOCIATION BULLETIN

Published Quarterly By The
RETIRED OFFICERS ASSOCIATION
(INCORPORATED)
2517 CONNECTICUT AVENUE, N. W.
WASHINGTON 8, D. C.
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EDITOR.....H. G. HAMLET

Entered as second class matter, May 2, 1945, at the Post Office at Washington, D. C., under the Act of March 3, 1879.

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contributions. If many agree we will be better off than now, and if nearly all agree the future financial stability of the Association will be assured and the service the Association renders its members can be extended and its activities expanded.

It will be noted that the Board of Directors proposes only *suspension* of Life Memberships and Associate Memberships for new members, thus leaving the way open for reinstating those classes of Memberships for new members later if found desirable.

Social Security

At our request, Assistant Executive Director W. L. Mitchell of the Social Security Board comments upon Recommendation (c) of our Public Relations Committee as follows,—

"OLD-AGE AND SURVIVORS INSURANCE FOR PERSONS IN THE ARMED FORCES"

It is well recognized that the provisions of the old-age and survivors insurance program of the Social Security Act work to the disadvantage of men and women who go into the armed services from "covered" employment—jobs in private industry and business—or who might have gone into such jobs instead of entering the armed forces. Various proposals have been suggested to remedy this deficiency in the law.

One proposal is that the insured status of persons in the armed forces be "frozen" as of the time they went into the service so that they would have the same rights when they returned to private life as when they left. This plan has two principal disadvantages. One is that a large proportion of persons entering the armed forces have no previous coverage mainly because of their youth and therefore no previous existing benefit rights to be frozen. The other disadvantage of this so-called moratorium plan is that no increase in benefit rights is possible while in the armed services.

The alternative to the moratorium proposal would treat service in the armed forces as though it were "covered" employment and would credit to the serviceman's social security account the wages received during his military service. Not only would the old-age and survivors insurance protection be maintained for all members of the armed forces—both those who have previously participated and those who have not; it would generally be increased by reason of their military employment — servicemen and women could build up benefit rights while in the armed forces.

The Social Security Board believes the alternative plan preferable to the moratorium proposal. It also recommends that if the law is changed to preserve the insurance protection of persons in the armed forces it should be made retroactive to the beginning of the emergency so that no serviceman will have lost protection, and many will have gained, by being in the armed forces. Some adjustments, the Board believes, would be necessary in the matter of duplication of benefits occurring under several Federal laws."

The fact is not generally understood that retired military personnel accepting civilian jobs in "covered" employment are entitled, in addition to military retirement benefits, to the benefits of Old Age and Survivors insurance, but only to the extent of the time served in private employment. The foregoing comments propose among other things to grant to military personnel qualifying for Social Security by employment in "covered" jobs, either before or after active military service or both, some

factor of credit for the period served in active military service, during which no benefit rights in Social Security now accrue.

IMPORTANT

It is to the interest of each member himself to keep current his mailing address in this office. An astonishing number of pieces of mail are returned marked "Moved—Left No Address."

Reprinted by Permission of the Judge Advocate General of the U.S. Navy.

P16-3(18)/OR June 1, 1943

MEMORANDUM CONCERNING THE LEGALITY OF RETIRED NAVAL OFFICERS HOLDING CIVIL OFFICES UNDER FEDERAL, STATE, OR TERRITORIAL GOVERNMENT OR EMPLOYMENT WITH PRIVATE CONCERNS.

The usual cases of employment of retired officers are covered in this memorandum, which is furnished for information only. The applicable statutes should be referred to in any particular case.

The question as to whether a retired officer may legally accept a civil appointment and still hold his position on the retired list is one of private concern only and not a subject with which the United States can concern itself until some action has been taken by the retired officer. The obvious course for any retired officer called upon to determine that question is to seek the advice of private counsel, since it is one strictly of private concern and in no sense of public interest. (Attorney General's opinion, March 26, 1897, 21 Op. Atty. Gen. 510.)

Under this opinion of the Attorney General, it is not for the Navy Department to decide in any particular case whether the prospective employment of a retired officer would come within the prohibition of any statute.

Unless otherwise provided by law, retired officers whose retired pay amounts to $2,500 per annum are prohibited from holding any other compensable Federal office unless (1) elected thereto, or (2) appointed by the President with Senate confirmation, or (3) retired because of battle injuries or incapacities incurred in line of duty. (5 U.S. Code, sec. 62.)

Retired officers of the Navy may accept appointments to positions in the diplomatic or consular branches of the Foreign Service of the United States. (34 U.S. Code, sec. 226.)

Naval appropriations are not available for the pay of any officer on the *active* list who is employed by any person or company furnishing naval supplies or war material to the Government, and any such employment would be *unlawful;* nor are naval appropriations available for the pay of any retired officer who for himself or for others is engaged in selling or contracting or negotiating for the sale of naval supplies or war material to the Navy or to the Navy Department. (Act of June 10, 1896, 29 State. 361, as amended by sec. 9, Act of July 22, 1935, 49 Stat. 490; 34 U.S. Code, sec. 883.)

Persons or firms that furnish plans, specifications, designs or drawings for the Navy "are commonly understood as being engaged in the furnishing of professional services, and clearly professional services are not 'naval supplies or war materials' within the accepted meaning of that term." (Comp. Gen. B-12238, Nov. 7, 1940.)

Under sections 41 and 109, Criminal Code, a retired officer is forbidden to represent the United States in the transaction of business with companies or firms in which he has a direct or indirect pecuniary interest or to assist in the prosecution of claims against the United States. (Act of Mar. 4, 1909, 35 Stat. 1097, 1107; 18 U.S. Code 93, 198.)

Retired officers while not on active duty are permitted to receive compensation for services rendered to or in behalf of any person, in relation to any proceeding, contract, claim, controversy, charge, accusation, arrest, or other matter or thing in which the United States is a party or directly or indirectly interested, before any department, court-martial, bureau, officer, or any civil, military, or naval commission, provided he does not represent any person in the sale of anything to the Government through the department in whose service he holds a retired status. (Sec. 113, Criminal Code, Act of Mar. 4, 1909, 35 Stat. 1109, as amended by Act of October 8, 1940; ;18 U.S. Code 203.)

Where a retired officer has qualified for and accepted appointment to a civilian office or position under the Federal Government or the municipal government of the District of Columbia, or under any corporation the majority of the stock of which is owned by the United States, the combined rate of his compensation in such civilian office or position and his retired pay for or on account of commissioned services is limited by law to $3,000 per annum, but if the retired rate of pay exceeds $3,000, then the retired officer can only receive one pay and must therefore elect whether he will continue to receive his retired pay or the pay of the civilian office or position. Should he give up his retired pay while

holding a civil office or position, he may again receive his retired pay when he relinquishes his civilian office or position. (Act of June 30, 1932, sec. 212, 47 Stat. 406, as amended by Act of July 15, 1940, sec. 3, 54 Stat. 761; 5 U.S. Code, sec. 59a.) An officer receiving retired pay of $2900 per annum and employed in a civilian office or position with a salary of $2800 per annum would be paid at a net rate of $3,000 per annum. (12 Comp. Gen. 37, 47.)

"The inhibition of subparagraph (a) of section 212, Act of June 30, 1932, supra, limiting the combined rate of compensation to $3,000 per annum, "is not against the retaining of the retired status but is that 'no person holding a civilian office * * * shall be entitled, during the period of such incumbency, to retired pay from the United States * * * as a commissioned officer.' Also, that the right of election given under the statute is not as to whether he shall continue to hold the civilian office or position or to continue to hold his retired status, but is as to whether he shall accept the pay of the one or the pay of the other." (Comp. Gen. Aug. 9, 1932, A-43761.)

Commissioned officers who have been "retired for disability incurred in combat with an enemy of the United States", or pursuant to the Act of July 15, 1940 (54 Stat. 761; 38 U.S.C., sec. 582 b) "for disabilities resulting from an explosion of an instrumentality of war in line of duty during an enlistment or employment as provided in Veterans Regulation Numbered 1 (a), Part I, paragraph I", are expected from the requirements of said section 212. The first quoted clause has been defined by the Comptroller General to apply to officers "retired for disability the direct result of injury from the instrumentalities of war employed by the enemy in combat with the forces of the United States," as, for example, where the disability necessitating retirement was directly due to inhaling poison gas during combat with an enemy of the United States. (Comp. Gen., Jan. 3, 1933, A-44756.)

Reserve officers, while employed on active duty, may be paid compensation by any person, firm, or corporation, provided that, prior to commencement of active duty, they were receiving compensation from such person, firm, or corporation. (Selective Training and Service Act of 1940, sec. 3(f), approved Sept. 16, 1940, 54 Stat. 887; 50 U.S.C.War, Appendix, sec. 303.)

W. B. WOODSON,
Judge Advocate General of the Navy.

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CIRCULAR:

WAR DEPARTMENT,
Washington, July 11, 1942.

INFORMATION CONCERNING RESTRICTIONS UPON ACTIVITIES OF RETIRED OFFICERS OF THE REGULAR ARMY

1. a. In response to a request for an opinion as to whether a retired officer of the Army could hold a certain civil office, the Attorney General many years ago declared that the solution of such a question by a retired officer is a matter of his private concern only and not a subject with which the United States can be concerned until some action has been taken by such officer. He then pointed out that the obvious course for such an officer to pursue is to seek the advice of private counsel (21 Op. Atty. Gen. 510).

b. Notwithstanding such disclaimer of obligation on the part of the Government to advise retired Army officers as to the civilian activities in which they may safely engage without violating the law or affecting their status as retired officers, it has been the long-established administrative practice of the War Department to render advice of this nature whenever practicable. It now appears that a need has arisen for setting forth in convenient form a brief analysis of the more important laws and principles involved rather than to continue to answer individual inquiries of this nature, and the former practice will be discontinued. The contents of this circular should not be regarded as an authoritative statement as to what action is and what action is not lawful, but rather as a general guide to assist interested persons to determine for themselves or with the advice of private counsel what course of action may safely be pursued. In the final analysis, it should be borne in mind that the interpretation and enforcement of Federal criminal statutes are functions of the Department of Justice and the Federal civil courts, and that authoritative rulings regarding questions involving pay status may be made only by the Comptroller General of the United States and the Federal courts.

2. There is no general statutory prohibition agains the employment in civilian pursuits of retired officers of the Army. A retired army officer is an officer of the United States, however, and as such is subject generally to any law restricting the activity of an officer of the United States, unless specifically exempted from the operation of its provisions. In

general, retired officers who have been recalled to active duty are subject to the same restrictions as officers on the active list.

Constitution

The provision of the Constitution of the United States, article I, section 9, clause B, prohibiting an officer from accepting, without the consent of Congress, any present, emolument, office, or title from any foreign government is applicable to retired officers.

Harbor Amendment

Recent appropriation acts, including the Military Appropriation Act, 1942 (Bull. 18, W.D., 1941), contain the so-called "Harbor Amendment," which definitely restricts activities of retired officers. It reads as follows:

No payment shall be made from money appropriated in this act to any officer on the retired list of the Army who, for himself or for others, is engaged in the selling of, contracting for the sale of, or negotiating for the sale of, to the Army or the War Department, any war materials or supplies.

A sale of merchandise to a commissary is a sale to the Government (JAG 210.41, June 10, 1933). The fact that the retired officer is employed by a firm selling, contracting, or negotiating for the sale of war materials or supplies to the Army or the War Department is not necessarily determinative of the applicablity of the statute under consideration. For example, it has been held that employment of a retired officer as a complaint adjuster for the Ford Motor Company would not be within the prohibition of the statute (JAG 210.41, Sept. 11, 1940). The same conclusion was reached as to employment as an inspector of parts for airplane motors by a concern engaged exclusively in the manufacture of motors for the Government (JAG 210.851, Feb. 25, 1942).

Criminal Statutes

Certain activities of retired officers are further restricted by the provisions of various criminal statutes. Section 109 of the Criminal Code (18 U.S.C. 198), which prohibits officers of the United States from acting as agents or attorneys in the prosecution of claims against the United States, applies to retired officers (*Morgenthau v. Barrett*, 108 F. (2d) 481; JAG 210,851, Nov. 1, 1940), but a retired Army officer is not barred from practicing as an attorney before the Treasury Department in matters other than in claims against the United States in view of the act of October 8, 1940, *infra*, specifically excepting them from the restrictions imposed by section 113 of the Criminal Code.

Section 112 of the Criminal Code (18 U.S.C. 202), which prohibits officers of the United States from receiving consideration for procuring contracts from the United States, applies to retired officers so as to bar them from procuring, on a commission basis, or otherwise, contracts for the sale of anything to the United States Government (JAG 210.41, Dec. 26, 1940). Nothing in this act, however, prevents officers from contracting directly with the Government in matters entirely separate from their offices (14 Op. Atty. Gen. 482).

Section 113 of the Criminal Code (18 U. S. C. 203), which prohibits any officer from receiving any compensation for services rendered to another in connection with any controversy or matter in which the United States is interested, was made expressly inapplicable to retired officers while not on active duty, by the act of October 8, 1940 (54 Stat. 1021), except that a retired officer may not represent another in the sale of anything to the Government through the department in the service of which he holds a retired status.

Dual Compensation Statutes

Some of the provisions of statutes prohibiting dual compensation or the holding of two incompatible positions are applicable to retired officers. However, the provisions of section 1222, Revised Statutes (10 U. S. C. 576), prohibiting officers of the Army from accepting or holding civil office and providing for vacation of the Army commission for violation thereof, are expressly limited to officrs of the Regular Army on the active list and are therefore not applicable to retired officers (19 Op. Atty. Gen. 283). Furthermore, section 1763, Revised Statutes, as amended (5 U. S. C. 58), which prohibits payment of salary to any person receiving two or more salaries aggregating more than $2,000 per annum, was expressly made inapplicable to retired officers by the act of May 10, 1916 (39 Stat. 120), as amended (39 Stat. 582; 5 U. S. C. 59).

Section 2 of the act of July 31, 1894 (28 Stat. 205), as amended (5 U. S. C. 62), prohibits any officer drawing a salary of $2,500 per annum from being appointed to or holding any other office to which compensation is attached unless specially authorized by law. By its express terms this statute does not affect officers who were retired for injuries received in battle or for injuries or incapacity incurred in line of duty; nor does it prevent retired officers from holding offices to which they are elected or to which they are appointed by the President by and with the advice and consent of the Senate, even

though their retired pay exceeds $2,500 per annum. With the exceptions noted above, an officer whose retired pay amounts to $2,500 per annum cannot be appointed to or hold any other office, to which compensation is attached, under the Federal Government unless there is a special statute authorizing the holding of such office. In this connection, the term "office" as used in this statute is a broad general term which has been construed to include any person holding a place or position under the Federal Government and paid from Government funds (1 Comp. Gen. 700; SPJG 210.716, March 31, 1942). Even though an officer's retired pay amounts to less than $2,500 per annum, he cannot be appointed to another office under the Government if the salary or annual compensation attached to the other office amounts to $2,500 (13 Comp. Gen. 60 SPJG 210.716, March 31, 1942). An officer who is precluded by this statute from being appointed to a particular office cannot remove the inhibition of the statute by waiving or relinquishing his retired pay (14 Comp. Gen. 289; SPJG 210.43, May 12, 1942. If an officer who is precluded by this statute from being appointed to a particular office accepts such office, such acceptance would probably operate to vacate his Army office and status (SPJG 210.716, March 31, 1942).

Section 212, act of June 30, 1932 (47 Stat. 406), as amended by the act of July 15, 1940 (54 Stat. 761; 5 U. S. C. 59a), provides:

Sec. 212. (a) After the date of the enactment of this Act, no person holding a civilian office or position, appointive or elective, under the United States Government or the municipal government of the District of Columbia or under any corporation, the majority of the stock of which is owned by the United States, shall be entitled, during the period of such incumbency, to retired pay from the United States for or on account of services as a commissioned officer in any of the services mentioned in the Pay Adjustment Act of 1922 (U. S. C., title 37), at a rate in excess of an amount which when combined with the annual rate of compensation from such civilian office or position, makes the total rate from both sources more than $3,000; and when the retired pay amounts to or exceeds the rate of $3,000 per annum such person shall be entitled to the pay of the civilian office or position or the retired pay, whichever he may elect. As used in this section, the term "retired pay" shall be construed to include credits for all service that lawfully may enter into the computation thereof.

(b) This section shall not apply to any person whose retired pay, plus civilian pay, amounts to less than $3,000: *Provided*, That this section shall not apply to regular or emergency commissioned officers retired for disability incurred in combat with an enemy of the United States or for disabilities resulting from an explosion of an instrumentality of war in line of duty during an enlistmet or employment as provided in Veterans Regulation Numbered 1 (a), part I, paragraph I."

It will be noted that only two classes of officers are exempted from the provisions of this statute: (1) those retired for disability incurred in combat with an enemy of the United States; and (2) those retired for disabilities resulting from an explosion of an instrumentality of war in line of duty. Hence, unless an officer was retired for one of these two causes, even though he is not precluded from accepting another civil office under the Government by the act of July 31, 1894, *supra*, his salary would be affected as follows: (1) if both his retired pay and the pay of the other office exceeds $3,000 per annum, he may receive either his retired pay or the pay of the other office, whichever he may elect; (2) if his retired pay is less than $3,000 per annum but the pay of the other office amounts to $3,000 per annum, he may not receive any retired pay while holding the other office; or (3) if neither his retired pay nor the pay of the other office amounts to $3,000, he may receive the pay of the other office plus a sufficient amount of his retired pay to make the total rate from both sources $3,000 per annum. If an officer is compelled to relinquish all or any part of his retired pay under the provisions of this statute, upon relinquishing the civilian position he reverts to his former retired pay and status (JAG 210.41, Dec. 29, 1941 JAG 210.581, Mar. 1, 1942).

The above-mentioned statutory restrictions against the holding of two offices or dual compensation do not prohibit a retired Army officer from accepting employment under a State, county or municipal government because such restrictions apply only to dual employment under the Federal Government (Dig. Ops. JAG, 1912-40, sec. 315a).

Holding State and Federal Office

Executive Order No. 9, January 17, 1873, as amended, which forbids any person holding any Federal civil office from accepting or holding any State, territorial, or municipal office, does not apply to retired Army officers because the Executive order by its terms applies only to Federal civil officers, and retired Army officers are not Federal civil officers within the meaning of the Executive order (SPJGA 210.41, June 7, 1942).

Retired Warrant Officers

Retired warrant officers are affected by some of the statutes discussed above, while the provisions of others are not applicable to them. Section 2 of the act of July 31, 1894, *supra*, is applicable to a retired warrant officer unless he was retired for injuries received in battle or for injuries or incapacity incurred in line of duty; while the provisions of section 212 (a), act of June 30, 1932, supra, do not apply to a warrant officer in any event, unless he has been retired for or on account of services as a commissioned officer (16 Comp. Gen. 234; 21 Comp. Gen. 38). Dual payment of salaries aggregating more than $2,000 per annum to a retired warrant officer holding a civilian position does not contravene section 1763 of the Revised Statutes, as amended, *supra* (21 Comp. Gen. 38).

Section 9 (a) of the Hatch Act (act Aug 2, 1939, 53 Stat. 1148; 18 U. S. C. 61), which prohibits officers and employees in the executive branch of the Federal Government from taking active part in political campaigns, does not apply to retired officers (JAG 000.1, Aug. 29, 1940; SPJGA 000.1, Apr. 16, 1942).

Terminal Leave

An officer on terminal leave continues in the status of an officer on the active list until passing to the retired list at the expiration of such leave period (SPJGA 000.1, Apr. 16, 1942).

General

Finally, it should be remembered that the provisions of paragraph 2e (1) (a) AR 600-10, June 2, 1942, which prohibit officers from using, or permitting the use of, their military titles in connection with commercial enterprises of any kind, are applicable to retired officers; that, by express statutory provisions, retired officers may, in time of war, be employed on active duty in the discretion of the President (10 U. S. C. 922); and that retired officers are at all time subject to the rules and articles of war, and to disciplinary action for any breach thereof (10 U. S. C. 1023).

(A.G. 210.851 (7-3-42).)

By order of the Secretary of War:

G. C. MARSHALL,
Chief of Staff.

Official:

J. A. ULIO,
Major General,
The Adjutant General.

COMPTROLLER GENERAL'S DECISIONS

November 3, 1944—B-41471

In response to the question by the Commandant of the Coast Guard: "Whether the employment of Lieutenant Charles R. Joyce, U.S.C.G., Retired, as Third Assistant Engineer on the S.S. DANIEL DRAKE, a vessel operated by United States Lines, Agents for War Shipping Administration, constituted the holding of a civilian office or position under the United States Government within the scope of Section 212 of the so-called Economy Act of June 30, 1932 (47 Stat. 406) as amended (5 U.S.C. 59a)?", the Assistant Comptroller General in a lengthy opinion decided:—

"Based upon the facts as reported in the Commandant's letter, it appears that the retired officer held the status of a seaman on a merchant vessel. Accordingly, you are advised that the provisions of Section 212 of the said Economy Act are not for application to such civilian employment of Lieutenant Joyce under the War Shipping Administration."

April 21, 1945—B-48550

In response to the request of the Administrator of Veterans Affairs for advice "concerning the applicability of Section 212 of the Act of June 30, 1932, 47 Stat. 406, to retired officers employed in civilian positions by Army post exchanges, the effect of the Statute being, in general, to limit to $3,000 per annum the total compensation which may be received at one time by any person in the dual status of (1) a retired officer (with certain exceptions) of one of the services mentioned in the Pay Readjustment Act of 1922 (title 37, U.S. Code), and (2) holding a civilian office or position, appointive or elective, under the United States Government or the municipal government of the District of Columbia or under any corporation, the majority of the stock of which is owned by the United States" the Comptroller General in a lengthy opinion decided:—

"Accordingly, in the light of the foregoing, I agree with the conclusion in the decision of Acting Comptroller General Elliott rendered August 2, 1940, B-10668, to the effect that the provisions of Section 212 of the Act of June 30, 1932, 47 Stat. 406 are applicable to post exchange employees."

THE ASSOCIATION'S RELATIONS WITH THE CONGRESS

In view of the apparent misunderstanding by some of our members of the restrictions placed upon the Association in its intercourse with the Congress of the United States in legislative matters the following outline of the procedure we are required to follow is set forth for the information of the membership,—

The Judge Advocate General of the Navy in his

October—December 1943, Court Martial Order No. 4-1943, 4 June 1944, said in effect that if the activities of the Retired Officers Association "include the influencing of legislation" then "retired officers on active duty would violate the provisions of Article 92, Navy Regulations, by maintaining membership in the Retired Officers Association for the reasen that the members would constitute a combination of officers within the meaning of the regulation".

In the same opinion it was further stated "apparently Article 92, Navy Regulations is not based on any provision of law. It is, therefore, a matter of policy rather than law as to whether retired officers on active duty may be permitted to retain membership in the Retired Officers Associaton. If the Secretary of the Navy, as a matter of policy, may desire to permit this being done, it can be accomplished by an appropriate modification to Article 92, a matter for original considerations by the Bureau of Naval Personnel."

In a letter dated January 6, 1944, the late Colonel Frank Knox, then Secretary of the Navy, said among other things; "There has not been, nor is there now, any prohibition against retired officers serving as members or officers of the Retired Officers Association, provided their conduct and the activities of the Association do not violate the provisions of Article 92, Navy Regulations. In the event that the Association should indulge in activities covered by Article 92, it will then be incumbent for those officers and members who are on active duty at that time to sever their connection with the Association forthwith."

The War Department's position in the matter as expressed in A.-R. 600-10, as amended from time to time, has consistently forbidden "efforts by any person in the active military service of the United States or by any retired member of the Regular Army to procure or oppose or in any manner influence legislation affecting the Army or to procure personal favor through legislation except to procure the enactment of private relief legislation." Also the same AR. 600-10 provides in effect that military personnel are forbidden to appear before committees of Congress except when summoned or requested to so appear. When so summoned or requested military persons must notify the Legislative and Liaison Division, War Department Special Staff, prior to appearing. In all other cases military personnel may not appear before committees of Congress unless authorized or directed by the Secretary of War.

Accepting these mandates of the War Department and the Navy Department the Retired Officers Association requested the Secretary of War and the Secretary of the Navy to afford the Association an opportunity to present its views on matters bearing upon the welfare of retired officers. The Secretary of War in answer to that request designated the Deputy Chief of Staff, G-1, of the Army and the Secretary of the Navy designated the Chief of the Bureau of Personnel of the Navy, as liaison officers with the Retired Officers Association. It is through these channels that the interests of our members are presented, and not direct to the Congress.

The following extract from a letter of Acting Secretary of the Navy, H. Struve Hensel, March 17, 1945, to Honorable Carl Vinson, Chairman of the Committee on Naval Affairs, House of Representatives, is reprinted by permssion of Congressman Vinson's office.

* * * "In the interest of equitable and comprehensive retirement legislation careful consideration should be given to the general problem of retirement pay of persons retired for disability or age who have had service in time of war, whether such service has been in the Army, Navy, Marine Corps or Coast Guard. With this idea in mind, arrangements have been made for a committee appointed by the Joint Army-Navy Personnel Board to make a study of this matter and to submit recommendations as to desirable remedial legislation." * * *

RETIRED OFFICERS ASSOCIATION BULLETIN
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